

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Appeal No. 14408, of the Residential Action Coalition, pursuant to Sections 8102 and 8206 of the Zoning Regulations, from the administrative decision of James J. Fahey, Zoning Administrator, dated September 24, 1985, determining that pursuant to Sub-section 7106.1 and, in the alternative, Sub-paragraph 7106.114, a chancery use can locate resulting from a change in nonconforming use from non-profit organization to chancery use, in an R-5-B District at premises 1701 - 18th Street, N.W., (Square 153, Lot 132).

HEARING DATE: April 16, 1986  
DECISION DATE: April 16, 1986 (Bench Decision)

ORDER

This appeal, filed on January 22, 1986, challenges the decision of the Zoning Administrator dated September 24, 1986, in which the Zoning Administrator determined that a chancery use can locate in the R-5-B District as a result of a special exception for a change of non-conforming use from offices of a non-profit organization to a chancery pursuant to Sub-section 7106.1. Specifically, the appellant argued that the Zoning Administrator erred as follows:

1. The Zoning Administrator signed a letter prepared by the State Department which indicated the BZA Application No. 14376 could go forward under the provisions of Sub-section 7106.1 of the Zoning Regulations. The appellant argued that the location of a chancery use may only be considered under the auspices of Article 46 of the Zoning Regulations.
2. The Zoning Administrator further erred by signing an additional letter introduced during the course of the public hearing on BZA Application No. 14376 which indicated that the proposed use could be considered as a C-1 office use for zoning purposes.
3. The Zoning Administrator's decision was not consistent with the intent and purpose of Sub-section 7106.1 which is that existing non-conforming uses be allowed to "wither away."

The letter prepared by the State Department dated September 13, 1985, states that the State Department was of the opinion that the applicant in BZA Application No. 14376,

the Coordination Council for North American Affairs, should be treated as a chancery use and requested the Zoning Administrator to confirm that that application could be processed pursuant to Sub-section 7106.1 with a variance from Sub-paragraph 7106.114. The Zoning Administrator confirmed that the relief cited was correct by signature on September 24, 1985.

The letter prepared by the State Department on January 16, 1986, requested the Zoning Administrator to confirm that the office use proposed in BZA Application No. 14376 may be considered as a C-1 office use for zoning purposes. The Zoning Administrator confirmed that the proposed use should be considered as a C-1 office use by signature dated January 21, 1986.

Paragraph 7106.11 of the Zoning Regulations provides that a non-conforming use may be changed to a use which is permitted as a matter-of-right in the most restrictive district in which the existing non-conforming use is permitted as a matter-of-right subject to general offices including the offices of a non-profit organization are first permitted as a matter-of-right in the C-1 District. A chancery is also first permitted as a matter-of-right in the C-1 District. Neither of the letters prepared by the State Department and signed by the Zoning Administrator stated that the proposed use in BZA Application No. 14376 was for a chancery. Both letters addressed the proper relief which should be sought in order for the CCNAA to occupy the subject premises for office purposes.


By BZA Order No. 14376, dated June 26, 1986, the Board found that the CCNAA did not meet the definitions of a chancery or international organization as contained in the Zoning Regulations and concluded that the application was properly filed before the BZA as a change of a non-conforming use from offices of a non-profit organization to general office use with a variance from the prohibition against permitting a use other than a dwelling, flat, apartment house or a neighborhood facility in a residential district.

Based on the foregoing, the Board concludes that the appellant has not produced any evidence demonstrating a decision by the Zoning Administrator that the proposed use in BZA Application No. 14376, was a chancery. The Board further concludes that the decision dated September 24, 1985, directing the applicant in BZA Application No. 14376 to seek special exception relief pursuant to the provisions of Section 7106.11 was not in error. Accordingly, it is ORDERED that the appeal is DENIED.

VOTE: 5-0 (Maybelle T. Bennett, Charles R. Norris, Paula L. Jewell, William F. McIntosh and Carrie L. Thornhill to deny).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
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EDWARD L. CURRY  
Acting Executive Director

FINAL DATE OF ORDER: SEP 26 1986

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

14408appeal/LJPV